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MEMO ENDORSED

December 23, 2020

Via ECF

Hon. Valerie Caproni
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Conti v. Doe, No. 17-CV-9268 (VEC)

Your Honor:

This firm represents Defendant John Doe. We write pursuant to the Court's Individual Rule 5.A, Paragraph 13 of the Confidentiality Order in this matter, and the Court's December 21, 2020 Order, *see* Dkt. 237, to respectfully request permission to file completely under seal—as opposed to filing publicly with redactions—Exhibits JJ–TT to the Declaration of Andrew G. Celli, Jr., dated December 18, 2020¹ (“Celli Declaration”).¹ All of these Exhibits are excerpts from the transcripts of depositions taken in this case.

We asked Plaintiff's counsel for their position on this request earlier today, and they responded as follows: “Plaintiff's counsel received a request to provide our position regarding Defendant's contemplated motion for leave to file under seal Exhibits JJ through TT from his motion for summary judgment. The Exhibits in question consist of portions of deposition transcripts from 11 examinations before trial, totaling nearly 700 pages of testimony. Defendant bears the burden on the sealing motion, and therefore Plaintiff's counsel should not be required to analyze all of this deposition testimony to assess whether it meets the sealing standard. Additionally, we were asked to provide a response the same day that the request was made, and do not have sufficient time to review and analyze all of the

¹ The remaining exhibits to the Celli Declaration that Doe previously filed under seal—Ex. N–T and W–HH—are being filed publicly on the docket with redactions, pursuant to the Court's December 21, 2020 Order.

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testimony. Under the circumstances, Plaintiff respectfully requests an opportunity to respond to the motion.”

The transcripts Doe seeks to file under seal are from the depositions of Doe, members of Doe’s family, Plaintiff, and various non-parties, including Doe’s treating mental health professionals and attorney. The testimony covers a range of sensitive topics, which the witnesses all testified about under the assumption that their testimony would not be made public. Plaintiff’s counsel’s position is puzzling given that Doe is seeking only to protect the testimony of all witnesses, including Plaintiff himself, in a case that undisputedly involves highly sensitive information.

We therefore respectfully request leave to file Exhibits JJ–TT to the Celli Declaration under seal. If the Court denies this request, we respectfully request an opportunity to redact these exhibits before filing them publicly.

Respectfully submitted,

/s/

Andrew G. Celli, Jr.
Katherine Rosenfeld
Samuel Shapiro
Nick Bourland

c. All counsel of record (via ECF)

No later than **January 6, 2021**, Plaintiff must submit a letter indicating his objection, if any, to Defendant's request to file Exhibits JJ--TT under seal.

SO ORDERED.



12/28/2020

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE